

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CINDY DESIR, on behalf of herself, FLSA	:	
Collective Plaintiffs and the Class,	:	19-cv-08144(AT)(SC)
	:	
Plaintiff,	:	
	:	
-against-	:	
	:	
NYU LANGONE HEALTH SYSTEM, and	:	
NICOLE REISS,	:	
	:	
Defendants.	:	
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**DECLARATION OF NICOLE REISS**

I, Nicole Reiss, based on my personal knowledge and pursuant to 28 U.S.C. § 1746,  
declare as follows:

1. I am the Pharmacy Operations Manager at New York University Langone Hospitals (“NYU Langone”). I submit this Declaration in support of Defendants’ Opposition to Plaintiff Cindy Desir’s Motion for Conditional Certification of a Collective Action. The documents attached to this Declaration are true and correct copies of records maintained by NYU Langone and its Pharmacy Department in the ordinary course of business.

**Background**

2. As the Pharmacy Operations Manager, I am responsible for NYU Langone’s Pharmacy Technician Training Program (“PTTP” or the “Program”), which is designed to prepare qualified individuals to become certified as Pharmacy Technicians.

3. The PTTP is accredited by both the American Society of Health System Pharmacists (“ASHP”) and the Accreditation Counsel for Pharmacy Education (“ACPE”), two independent national certification organizations. The PTTP is also recognized by the Pharmacy

Technician Certification Board (“PTCB”). Upon successful completion of the Program, a student is prepared to take the Pharmacy Technician Certification Exam (“PTCE”) which is administered by the PTCB.

4. At the time Ms. Desir was enrolled in the Program, it consisted of 600 hours of instruction over 16 weeks, with sessions starting in September, January, and May of each year. Those 600 hours consisted roughly of one-third classroom instruction and examinations; one-third simulation training in a controlled “lab” setting, using candy and other placebos to learn bottling and compounding skills and techniques; and one-third observation of working Pharmacy Technicians to gain an understanding of the role. In order to obtain a certificate of completion, students must achieve a passing grade of a 70 in each module of the Program based on graded coursework, written exams, and observations.

5. The version of the website for the Program as it existed during Ms. Desir’s participation confirmed that “all student activities associated with the curriculum will be educational in nature” and that “students will not be receiving any monetary remuneration during this educational experience, nor will he or she be substituted for hired staff personnel within the clinical institution, in the capacity of a Pharmacy Technician.” Attached as **Exhibit A** is a true and correct copy of the PTTP website information.

Ms. Desir’s Participation in the Program

6. On November 6, 2017, while working as a part-time Admitting Representative at NYU Langone, Ms. Desir applied for admission to the Program. The application required her to submit a resume, an essay discussing why she wanted to pursue a career as a Pharmacy Technician, two reference letters, and her official high school transcript. Attached as **Exhibit B** is a true and correct copy of Ms. Desir’s application to PTTP program.

7. In her cover letter accompanying her application, Ms. Desir confirmed her understanding of the educational basis of the Program:

The appeal of the NYU Pharmacy Technician program is that the *education* is provided by NYULMC to current employee [*sic*]. It really resonated with me that NYULMC has that much faith in their teaching/training ability that they promote from within their own training facility. I appreciate that NYULMC provides their employees with an opportunity to expand their *education*. It shows that NYULMC encourages a lasting relationship with their employees. I also can't begin to express how much of a burden is lifted, when the concern of finance is removed when pursuing *higher education*.

Attached as **Exhibit C** is a true and correct copy of Ms. Desir's cover letter to the application.

8. On December 21, 2017, Ms. Desir signed an Enrollment Agreement, which confirmed again that "[s]tudents will not be receiving any monetary remuneration during this educational experience." Attached as **Exhibit D** is a true and correct copy of Ms. Desir's signed Enrollment Agreement.

9. Ms. Desir successfully completed the Program's curriculum and passed the PTCE exam given by the PTCB.

10. Since the time of Ms. Desir's participation in the Program, NYU Langone has changed the content and structure of the course in light of new PTCB guidelines requiring an individual to complete an accredited training program before being eligible to sit for the PTCE. The ASHP has endorsed two levels of training, entry level and advanced. In accordance with ASHP standards for entry-level training, for which the NYU Langone Program is accredited, the Program now consists of 400 hours of instruction. Those 400 hours include 120 hours of didactic, classroom instruction and examinations; 50 hours of skills training in a controlled "lab" setting, 130 hours of observation of working Pharmacy Technicians to gain an understanding of the role, and 100 hours of time to be used spent engaged in any of the three lessons, as well as

observation of other Pharmacy Technicians working in the Pharmacy Departments at other job sites across the NYU Langone hospital network in New York City.

Ms. Desir's Employment as a Pharmacy Technician

11. At or around the end of her participation in the Program, Ms. Desir applied for employment with NYU Langone as a full-time Pharmacy Technician II. She was hired into that position effective June 24, 2018, subject to 90-day probationary period concluding with a performance review by her manager.

12. On September 20 and 21, 2018, Ms. Desir failed to report to work without advising her supervisor. After several attempts to reach her went ignored, NYU sent Ms. Desir a termination letter on September 21, 2018 informing her that her probationary employment was terminated effective that day due to job abandonment. Attached as **Exhibit E** is a true and correct copy of Ms. Desir's Notice of Termination.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 4/29/2020

*Nicole Reiss*

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Nicole Reiss